IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2006

CORAM

THE HONOURABLE MR JUSTICE P.D.DINAKARAN
and
THE HONOURABLE MR JUSTICE M.THANIKACHALAM

Criminal Appeal No. 1067 of 2004

Govindasamy ... Appellant

Vs

State, by Inspector of Police,
Mulanur Police Station, Erode
District. (Cr. No.142 of 2003) ... Respondent

Prayer: Appeal against the judgment passed by the learned Principal Sessions Judge, Erode, in S.C.No.68 of 2004 dated 30.6.2004.

For Appellant : Mr.T.Munirathina Naidu

For Respondent : Mr.C.T.Selvam
Addl. Public Prosecutor.

* * * * *

J U D G M E N T

(Judgment of the Court was delivered by P.D.DINAKARAN, J.)

The appellant is the sole accused in Sessions Case No.68 of 2004 on the file of Principal Sessions Judge, Erode District and he was tried for the offences under Section 302 and 201 I.P.C. The first charge against the appellant was that on 16.8.2003 at about 10.00 a.m., due to previous enmity with regard to money transaction, when the deceased demanded the amounts due from the accused, the accused with an intention to cause the death of the deceased, beat him with a wooden log, that was kept hidden in his house and caused the death of the deceased and thereby, committed the offence punishable under Section 302 I.P.C. The second charge against the accused was that, after the deceased was attacked and done to death, the accused put the body in a gunny bag and took the same in a TVS-Moped and threw it in a pond near Erukkalangattupudur and thereby committed the offence punishable under Section 201 I.P.C.

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2. The learned Sessions Judge, after considering the evidence, both oral and documentary, convicted the appellant under Sections 302 and 201 I.P.C. and sentenced him to undergo imprisonment for life and also to pay a fine of Rs.1,000/-, in default of which, to undergo rigorous imprisonment for a period of 6 months for the offence under Section 302 I.P.C. and to undergo rigorous imprisonment for a period of two years for the offence under Section 201 I.P.C.

3.1. The short facts that are necessary for the disposal of the appeal are as follows:-

The deceased Kumarasamygounder was a resident of Chellapillai Goundanpudur village and the appellant/accused Govindasamy was residing at Muthugoundanvalasu village. The accused used to come to Chellapillai Goundapudur with regard to some money dealings with the deceased. On 15.8.2003 the accused came to the house of the deceased and demanded fresh loan from the deceased, but the deceased refused to oblige the accused, as the accused was already overdue to the deceased and also made it clear that unless the accused settle the overdues, he would not spare any further amount to the accused. The accused, thereafter, invited the deceased to come to his village next day for collecting the money due.

3.2. Believing that the accused would repay the amount due, the deceased proceeded to the house of the accused on the next day, i.e., on 16.8.2003. P.W.5, who was grazing the goats, saw the deceased going to the house of the accused. Thereafter, the deceased Kumarasamygounder was not seen alive by anyone.

3.3. On 17.8.2003 at about 7.00 a.m., when P.W.2, who is a resident of Erukkalankattupudur village, was in his field, he saw a blood-stained gunny bag near Nallathangal Odai canal. On seeing the blood-stained gunny bag, he immediately went to the office of the Village Administrative Officer, P.W.1 and informed the same to the village assistant. At about 8.00 a.m., when P.W.1 went to his office, he was informed by the village assistant and on hearing the same, he proceeded to the field of P.W.2 along with the village assistant and saw the gunny bag, and through the torn portion of the gunny bag, the leg with underwear was seen protruding out. P.W.1 also saw oozing out of blood from the side of the head of body and the tyre marks of a moped near the body with blood-stains. He immediately set the law in motion by preparing a report and submitting the same at Mulanur police station. Ex.P.1 is the said report.

3.4. On the basis of Ex.P.1, P.W.15, the Sub-Inspector of Police, Mulanur police station, registered a case in Crime No.142 of 2003 against unknown accused under Section 302 I.P.C. Ex.P.22 is

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the F.I.R. P.W.15 informed P.W.16, the Inspector of Police about the registration of the crime, who after obtaining a copy of the F.I.R., took up investigation and proceeded to the place where the dead body was found lying. He sent for the sniffer dogs and also for the photographer to take photographs of the place. He proceeded to the place where the body was lying at about 11.30 a.m. along with the photographer and other police officials. He gave directions to open the gunny bag and one Thangaraj identified the dead body as that of Kumarasamygounder. The photographs of the place as well as the body were caused to be taken by the photographer.

3.5. In the meantime, when P.W.3, the son of the deceased and his brother, Dhandapani, went in search of their father, they came to know from one Thangaraj that a dead body was seen lying in a canal near the field of P.W.2 and that the body was also identified as that of their father. Immediately, they proceeded to the said place.

3.6. P.W.16, the investigating officer, continued his investigation and in the presence of P.W.10, Village Administrative Officer of Thoorambadi village and another, he observed the place where the body was lying and prepared Ex.P.3 observation mahazar. He also prepared a rough sketch of that place, Ex.P.24. Thereafter, P.W.16 conducted inquest over the dead body of the deceased in the presence of panchayatdars and other witnesses and prepared inquest report, Ex.P.25. During inquest, he examined P.Ws.1 to 3 and others and recorded their statements. After the inquest, the body was sent for post-mortem through P.W.13, a police constable, along with a requisition.

3.7. On receipt of the requisition, P.W.12, Civil Assistant Surgeon attached to Government Hospital, Dharapuram, conducted post-mortem on the dead body of Kumarasamy Gounder and issued Ex.P.15, the post-mortem certificate. The doctor, P.W.12, found the following external injuries on the dead body of Kumarasamy Gounder:-

1. A lacerated wound of 8 x 6 cm. with contusion around in frontal region. Scalp hair peels out on pulling.
2. Skin avulsed from anterior chest wall on right side anterior aspect of right shoulder, right arm and anterior abdominal wall in epigastrium and hypochondrium.
3. Abrasion of 10 x 10 cm. back of left shoulder.
4. Abrasion of 15 x 10 cm. medial aspect of left elbow.
5. 8 x 8 cm. abrasion left knee. Scrotum and penis oedematous.

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As to the cause of death, the doctor, P.W.12, has opined that the deceased would appear to have died of multiple injuries and subsequent haemorrhagic shock, about 36 to 60 hours prior to autopsy.

3.8. On the same day, i.e., on 17.8.2003, P.W.16, the investigating officer, in the presence of P.W.10 seized from the place where the body was lying, M.O.1 – a blood-stained dhoti, M.O.2 – a piece of blood-stained white colour thread, M.O.3 series – blood-stained chappals, M.O.4 – a blood-stained gunny bag, M.Os.5 and 6 – blood-stained polythene bags, M.O.7 – a blood-stained bamboo stick with metal band at one end, M.O.8 – blood-stained earth and M.O.9 – sample earth under Ex.P.4 seizure mahazar. Thereafter, P.W.16, seized M.Os.10 and 11 – blood-stained earth mixed with stones from the place where the sniffer dogs pointed out, under Exs.P.5 and P.6 mahazars respectively. Thereafter, the sniffer dogs stopped at the house of the accused. P.W.16, after noticing blood-stained stones in the house of the accused, observed his house and prepared an observation mahazar, Ex.P.7. He also drew a rough sketch, Ex.P.26. He seized from the house of the accused, M.O.12 – blood-stained cement plaster, M.O.13 – sample cement plaster, M.O.14 – blood-stained gunny bag, M.O.15 – a gunny bag with red coloured plastic twine, M.O.16 – blood-stained earth mixed with vegetable matter, M.O.17 – sample earth mixed with vegetable matter, M.O.18 – blood-stained dhoti with dobi mark ++, M.O.19 – an iron bucket and M.O.20 – blood-stained coconut leaf stalk, under Ex.P.8 mahazar. He examined P.W.10 and others and recorded their statements. On 18.8.2003, he examined P.Ws.4 and 9 and recorded their statements. M.Os.31 and 32, blood-stained underwear and waist cord, produced by the police constable, who was present at the time of post-mortem, through a report, Ex.P.16, were seized by P.W.16 under Form 95. He sent all the material objects to the Court for the purpose of chemical examination.

3.9. On 19.8.2003, P.W.16 examined some witnesses and on 20.8.2003, he examined P.Ws.5, 6 and 7 and recorded their statements. On coming to know that the accused surrendered before the Judicial Magistrate No.1, Erode, on 18.8.2003, P.W.16 filed a petition before Judicial Magistrate, Dharapuram and took the accused into custody on 29.8.2003 on the orders of the Court. He questioned the accused in the presence of P.W.10 and another and the accused gave a voluntary confessional statement, which was recorded by P.W.16. The admissible portion of the statement given by the accused is Ex.P.9. Pursuant to the same, the accused took the police party to his house and produced M.O.21 - a blood-stained wooden log, which was kept hidden inside a water pipe, M.O.22 – an yellow colour cotton bag, Ex.P.11 – a blank promissory note, which was kept inside M.O.22, the cotton bag, M.O.23 series – currency

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notes, M.O.24 series – coins and M.O.25 – tobacco, which was kept in M.O.26 – a polythene urea bag. All the above material objects were seized under Ex.P.10 mahazar, which was attested by the witnesses. Thereafter, the accused took the police party and the witnesses to a river bank, where from a bush, he took a blood-stained dhoti with a dobi mark – M.O.27, which was seized under Ex.P.12 mahazar. Thereafter, on being pointed out by the accused, the TVS-Moped bearing No.TN-43 N 316 – M.O.28, was seized by P.W.16 under Ex.P.13 mahazar. P.W.16 brought the accused as well as the recovered material objects to the police station and on the next day, he sent the accused to Court for judicial remand.

3.10. P.W.16 examined other witnesses including P.W.11, the doctor who conducted post-mortem and recorded their statements. He issued a requisition, Ex.P.17, to send the material objects for chemical analysis and obtained Ex.P.19, the chemical examiner's report and Exs.P.20 and P.21, the reports of the serologist. After completing the investigation, he laid the final report before the Court on 3.10.2003 against the accused for the offences punishable under Sections 302 and 201 I.P.C., pursuant to which, the case was committed to Court of Sessions and charges were framed as referred to above. However, the accused denied the charges and hence, he was tried in S.C.No.68 of 2004 on the file of Principal Sessions Judge, Erode.

4.1. In order to substantiate the charges levelled against the appellant/accused, the prosecution examined P.Ws.1 to 16 and marked Exs.P.1 to P.26 and M.Os.1 to 32 before the Court. On completion of the evidence on the side of the prosecution, the accused was questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against him, which he denied as false. No witnesses were examined on the side of the accused, but claiming alibi, the accused filed a written statement, in which he has stated that he was staying with his mother and son and on 16.8.2003 at about 7.00 a.m., he went to Vellakkoil to visit his grand son and returned back only at 5.00 p.m. He has further stated that he had no connection with M.O.28, the TVS-Moped and that he did not give any statement to the police. On 17.8.2003 at about 6.00 p.m., on coming to know that he was being searched for the murder of the deceased, he surrendered himself before the Court. He further stated that a false case has been foisted upon him.

4.2. The trial Court, appreciating the evidence, both oral and documentary, came to the conclusion that it was the accused, who caused the death of the deceased Kumarasamygounder by inflicting injuries with a wooden log, M.O.21 and after the deceased died, in order to screen the evidence of offence, he put the dead body of the deceased into a gunny bag and threw it into the canal. Accordingly, the trial Court, by the impugned judgment, convicted the

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appellant/accused for the offences under Sections 302 and 201 I.P.C. and sentenced him, as referred to above. Against the said conviction and sentence, the accused has filed the present appeal.

5.1. The learned counsel appearing for the appellant, while assailing the above conviction and sentence, submits that the prosecution case is purely based on circumstantial evidence. Pointing out the contradictions in the evidence of P.Ws.3, 5, 6 and 7 as well as the doubt with regard to the recovery of material objects after the arrest of the accused and on his confession made to the police officials, the learned counsel for the appellant submits that the prosecution has failed to establish all the links in the chain of circumstances and therefore, the conviction of the appellant relying on such circumstantial evidence is not justified.

5.2. As an alternative submission, the learned counsel also argued for the modification of conviction and sentence, by relying upon the confession of the accused made to the investigating officer, wherein the accused has confessed that due to the provocation given by the deceased, he caused his death. The learned counsel, therefore, prays to bring the offences committed by him into any one of the Exceptions to Section 300 I.P.C.

6. The learned Additional Public Prosecutor, on the other hand, submits that even though the prosecution case rests upon circumstantial evidence, the circumstances pointed out by the prosecution clearly make a complete chain and there is no missing link in the chain of circumstances and hence, it was the accused and none else, who committed the murder of the deceased and therefore, the appeal has to be dismissed.

7. We have given our careful consideration to the contentions of both sides and also perused the records.

8. The fact that the deceased Kumarasamy Gounder died on account of homicidal violence is not disputed by the appellant/accused. The medical evidence, viz., the evidence of P.W.12, the post-mortem doctor and Ex.P.15, the post-mortem certificate issued by P.W.12 as well as Exs.P.19 to P.21, the chemical analyst's report and the serologist's report, clearly prove that the deceased died due to the multiple injuries and out of haemorrhagic shock. Hence, we have no hesitation to hold that the deceased Kumarasamy Gounder died on account of homicidal violence.

9. The question that is to be decided now is whether it was the accused, who caused the death of the deceased by inflicting injuries or anybody else.

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10. Of course, there is no direct eye-witness to speak about the occurrence proving the crime committed by the accused. The prosecution case, therefore, wholly rests on the evidence of circumstances, which may be best understood by comparison with direct evidence. *Circumstantial evidence must be a combination of facts creating a network through which there is no escape for the accused because the facts taken as a whole do not admit of any inference but of his guilt. Link after link forged firmly by credible testimony may form a strong chain of sure guilt binding the accused. Each link taken separately may just suggest but when hooked on to the next and on again may manacle the accused inescapably. Only then can a concatenation of incriminating facts suffice to convict a man. In cases dependant on circumstantial evidence in order to justify the inference of guilt, (i) all the incriminating facts and circumstances must be incompatible with the innocence of the accused or the guilt of any other person and incapable of explanation upon any other reasonable hypothesis than that of his guilt; (ii) the circumstances from which an inference adverse to the accused is sought to be drawn must be proved beyond reasonable doubt and must be closely connected with the fact sought to be inferred therefrom; and (iii) there must be a chain of evidence so far complete as not to leave reasonable ground for a conclusion therefrom inconsistent with the innocence of the accused. To speak eloquently, the circumstantial evidence should be like spider's web, leaving no exit for the accused to slip away. The various links in the chain, when taken in isolation, might not connect the accused with the commission of the crime but when taken together may unmistakably point out the guilt of the culprit. Therefore, the Court has to judge the total cumulative effect of all the proved circumstances, each of which reinforces the conclusion of the guilt of the accused. The circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused.*

11. Applying the above well settled principles relating to the circumstantial evidence to the facts and circumstances of the case at hand, the following are the circumstances the prosecution has to prove to bring home the guilt of the accused:-

(i) The first circumstance is the motive behind the occurrence, which was spoken to by P.W.3, the son of the deceased;

(ii) The second circumstance is the evidence of P.W.5, farm servant of the deceased, who has last seen the deceased alive;

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(iii) The third circumstance is the evidence of P.Ws.6 and 7, in that, P.W.6 saw the accused going in a TVS-Moped having a gunny bag in his front at about 8.00 p.m. on 16.8.2003 and returning back without the gunny bag at about 8.30 p.m. and P.W.7 saw the accused rolling his TVS-Moped with bare body at about 9.00 p.m.; and

(iv) The last circumstance is the recovery of material objects during investigation by the investigating officer, viz., the material objects recovered at the place where the body was found, on the way to the house of the accused and at the house of the accused and the recovery of material objects at the instance of the accused after his arrest.

12. Let us now analyse the evidence to find out whether the chain of circumstances, referred to above, has been clearly established by the prosecution without any missing link.

13.1. The first circumstance is the motive. P.W.3 speaks about the motive. He has stated in his evidence that the accused used to come to the house of the deceased with regard to money transactions. For the said purpose, it is the evidence of P.W.3, that on 15.8.2003, the accused came to the house of the deceased and requested fresh loan from the deceased, but the deceased insisted to settle the overdues before claiming fresh loan and made it clear that unless the accused pays the overdue amount, the deceased would not make any further loan to the accused. Immediately, the accused invited the deceased to his house for collecting the overdues on the next day, i.e., on 16.8.2003. From the above evidence of P.W.3, it is clear that the accused was to pay some amount to the deceased and hence, one can easily come to the conclusion that since the deceased demanded the old dues, the accused was having a grudge against the deceased.

13.2. The learned counsel for the appellant/accused assailing the evidence of P.W.3, submits that P.W.3 and the deceased were not in talking terms, in view of the evidence of P.W.3 in cross-examination that his family, the deceased family and his brother's family were living separately and after the death of P.W.3's first wife, he did not even invite the deceased and his brother for the marriage of his daughter and therefore, there is a possibility of P.W.3 speaking falsehood. Merely because the deceased was not invited by P.W.3 for his daughter's marriage, the case of the prosecution cannot be doubted because subsequently they were on good terms, which was clearly proved by the evidence of P.W.3 in chief-examination when his mother directed him and his brother to search for their father, the deceased, P.W.3 and his brother proceeded in

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search of their father, who had allegedly gone to the house of the accused the previous day for collecting the dues from the accused. Hence, we are of the considered opinion that the prosecution has clearly established the motive for the accused to attack the deceased.

14.1. The second circumstance is the evidence of P.W.5, a farm servant. P.W.5 has stated in his evidence that while he was grazing the goats on the morning of 16.8.2003, he saw the deceased going to the house of the accused. It is the further evidence of P.W.5 that he was grazing the goats till the evening and even thereafter, he did not see the deceased returning back from the house of the accused.

14.2. Learned counsel for the appellant/accused while attacking the evidence of P.W.5, would submit that even though P.W.3 had stated in his evidence that P.W.5 was working as an agricultural coolie is his farm, P.W.5 in his cross-examination had clearly stated that he is not the farm servant of P.W.3 and in view of the said contradiction, the evidence of P.W.5 could not be accepted. The contradiction as pointed out by the learned counsel has no relevance, since P.W.5 was only a coolie by profession, which by itself would show that he would graze the cattle either for the deceased or P.W.3 or for anyone in order to get coolie. That apart, from the evidence of P.Ws.3 and 5, it is crystal clear that after the accused invited the deceased to his house on the next day to collect the amount, the deceased went to the house of the accused on the next day and did not return back thereafter and he was also not seen alive by any one thereafter. Hence, there is no missing link in the second circumstance also.

15.1. The third circumstance is the evidence of P.Ws.6 and 7. P.W.6 has stated in his evidence that while he was going in his TVS-50 along with one Palani at about 8.00 p.m. on 16.8.2003, they saw the accused coming in the opposite direction in his TVS-Moped and through the light which was emerging from their vehicle, they saw a white colour gunny bag kept in front of the accused in his TVS-Moped. It is the further evidence of P.W.6 that at about 8.30 p.m., while they were talking in front of a shop, which was at the corner, they saw the accused coming back in his TVS-Moped without the gunny bag. Thus, it is clear from the evidence of P.W.6 that the accused was taking a white colour gunny bag in his TVS-Moped and while returning back, the said gunny bag was found missing. P.W.7 has stated in his evidence that he saw the accused rolling his TVS-Moped with bare body at about 9.00 p.m.

15.2. The learned counsel, of course, would submit that even though P.W.6 had stated in his chief-examination that he saw the accused coming in the opposite direction, in the cross-examination

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he had stated that the accused was not known to him and that he did not know the details of the accused. In our considered opinion, this contradiction, by itself, could not be a ground to ignore the evidence of P.W.6 totally. It is the evidence of P.W.3 that the accused used to come regularly to the village of the deceased with regard to money transactions, which clearly proves that P.W.6 did not know the accused personally, but he would have seen him in the village.

15.3. Learned counsel further contends that P.Ws.6 and 7, on coming to know about the death of the deceased on 17.8.2003, attended the funeral ceremony, during which, they did not disclose to anybody, even to P.W.3 - the son of the deceased, that they saw the accused carrying a gunny bag on the previous night, more so, when the complicity of the accused in the murder of the deceased was already fixed on 16.8.2003 by the investigating officer pursuant to the recovery of material objects from the place where the body was found and also on the way to the house of the accused as well as at the house of the accused. The non-disclosure by P.Ws.6 and 7 while attending the funeral ceremony of the deceased to any one or even to P.W.3 about the fact that they saw the accused on the previous night taking a gunny bag in his vehicle, in our considered opinion, does not affect the substratum of the prosecution case in view of the fact that only during investigation, the investigating officer, P.W.16, fixed the accused in the case and while the investigating officer examined P.Ws.6 and 7 on 20.8.2003, they disclosed the fact that they saw the accused on the previous night. It is also relevant to point out that P.Ws.6 and 7 were not present at the time of inquest conducted by the investigating officer over the dead body of the deceased on 17.8.2003 and if they were really present at the time of inquest, we have no doubt that they would have definitely disclosed the fact to the investigating officer. Hence, we are of the considered view that the contention of the learned counsel with regard to the third circumstance also has to fail.

16.1. The last circumstance is the recovery of material objects during investigation by the police and on the confession made by the accused after his arrest. As already referred in the earlier part of our judgment, during investigation, P.W.16 recovered M.Os.1 to 8, which were found to be blood-stained, from the place where the dead body was lying and M.Os.10 to 20, some of which were found to be blood-stained, on the way to the house of the accused. That apart, after the arrest of the accused, on the confession made by him, the investigating officer, P.W.16 seized M.Os.21 to 26 and Ex.P.11, after the same were produced by the accused from the water pipe, which was on the eastern side of his house. Subsequently, on being pointed out by the accused, M.O.28, the TVS-Moped, was also seized. The material objects, which were found to be blood-stained, viz., M.Os.1 to 12, 14, 16, 18, 20 and 21 were subjected to chemical

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examination and the report of the chemical examiner, Ex.P.19, as well as the reports of the serologist, viz., Exs.P.20 and P.21, clearly show that they were found to contain human blood, even though the grouping test of the same is inconclusive.

16.2. Learned counsel for the appellant submits that the recovery of the above material objects by the investigating officer cannot be accepted, in view of the fact that the recovery has been effected by the prosecution in the presence of P.W.10, a Village Administrative Officer not having jurisdiction with regard to the occurrence, even though P.W.1, the Village Administrative Officer, under whose jurisdiction the occurrence had taken place and who has set the law in motion, was very much present in the village. Hence, the learned counsel submits that the recovery of the above material objects by the investigating officer creates a doubt in the veracity of the prosecution. But, we are unable to appreciate the same. In our considered opinion, merely because the material objects have been seized in the presence of P.W.10, a Village Administrative Officer not having jurisdiction with regard to the place of occurrence, the recovery of the material objects during investigation by the investigating officer and at the instance of the accused after his arrest, cannot be doubted by itself, since most of the material objects recovered during investigation and at the instance of the accused were found to contain human blood even though the grouping test is not conclusive. That apart, P.W.10 is an independent witness and in spite of lengthy cross-examination, nothing was elicited from him that he had motive to speak falsehood against the accused. Hence, the said contention is rejected.

16.3. The learned counsel for the appellant would also contend that there is no evidence that M.Os.21 to 26, the details of which have already been referred to above, and Ex.P.11, a blank signed promissory note, were brought by the deceased. In this regard, we hold that a signed blank promissory note cannot be in possession of the signatory - the accused in this case, but only of the person who has lent money. As the visit of the deceased to the house of the accused has been established through the evidence of P.W.5, which is purportedly for collection of dues by the accused to the deceased, as spoken to by P.W.3, we find corroboration that Ex.P.11 was indeed brought by the deceased to the house of the accused. Therefore, the last circumstance, viz., the recovery of material objects during investigation by the investigating officer, P.W.16 and at the instance of the accused after his arrest, also proves the complicity of the accused in the crime.

17.1. Above all, even though the accused had chosen to file a statement during the questioning under Section 313 Cr.P.C. claiming

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alibi to the effect that on 16.8.2003 at about 7.00 a.m., he went to Vellakkoil to visit his grand son and returned back only at 5.00 p.m., there is no convincing explanation given by the accused attributing any motive to the evidence of P.Ws.5, 6 and 7, who are independent witnesses, except a bald denial of their evidence.

17.2. Circumstantial evidence, of course, should not only be consistent with the guilt of the accused but should also be inconsistent with his innocence. In a case where various links have been satisfactorily made out and the accused did not offer any explanation consistent with his innocence, the absence of such explanation itself is an additional link which completes the chain. In other words, the accused is entitled to the benefit of doubt only if the circumstances proved were consistent with the innocence of the accused. In the instant case, the failure of the accused to offer any explanation attributing any motive to the evidence of P.Ws.5, 6 and 7, who, in our considered opinion, could not have any ulterior motive to speak falsehood against the accused, by itself, is an additional link, which further strengthens the link and completes the chain.

18. In view of our above conclusion, we hold that the prosecution has succeeded in establishing all the links in the chain of circumstances, which prove beyond all reasonable doubt that it was the accused, who inflicted injuries on the body of the deceased, which proved fatal and in order to screen the evidence of offence, put the dead body into a gunny bag and threw it into the canal.

19.1. The alternative submission of the learned counsel is that it is clear from the confession given by the accused to the investigating officer that the deceased used filthy language and hence, due to provocation, he took a wooden log and beat the deceased, as a result of which, he died and therefore, the offence committed by the accused would only fall under any one of the Exceptions to Section 300 I.P.C.

19.2. The abovesaid contention of the learned counsel also cannot be accepted because there is no other corroborative material to show that the deceased used filthy language, which provoked the accused to cause his death. Further, the accused alone asked the deceased to come to his village to collect money, which has been established by evidence. Hence, we reject the said alternative submission also.

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20. For all the above reasons, we are fully satisfied that the trial Court was justified in convicting and sentencing the appellant. The appeal deserves to be dismissed and it is, accordingly, dismissed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1.The Principal Sessions Judge, Erode.
2.The District Collector , Erode.
3.The Director General of Police, Chennai.
4.The Superintendent, Central Prison, Coimbatore.
5.The Inspector of Police, Mulanur Police Station, Erode District.
6.The Public Prosecutor, High Court, Madras.
1 cc to Mr.D,Sekvaraju, Advocate, SR.44614

pv (co)

dv/12.10.06

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